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BOSTON, MA. 02109

Paper No. 4

In re Application of Silvers

Appl. No.: 08/957,833

Filed: October 27, 1997

For: DIGITAL COMPOSITION OF A MOSAIC IMAGE

: DECISION ON PETITION TO
: MAKE SPECIAL
: 37 CFR 1.102

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This is a decision on the petition under 37 CFR 1.102, filed September 3, 1998 to make the above-identified application special.

Petitioner(s) request that this application be made special under the accelerated examination procedure set forth in MPEP 708.02, Section II: Infringement.

A grantable petition to make an application special under 37 CFR 1.102 and in accordance with MPEP 708.02, Section II, must be accompanied by the required fee pursuant to 37 CFR 1.17(i) and a statement in support of the petition stating:

1. that there is an infringing device or product on the market or method in use,
2. that a rigid comparison of the alleged infringing device, product or method with the claims of the application was made,
3. that some of the claims are unquestionably infringed, and
4. that a careful search of the prior art was made or that applicant(s) have good knowledge of the pertinent prior art.

The petition does not meet the requirements for special status inasmuch as the petition and the corroborating statement lack support for parts 2 and 3 above. Petitioner has not provided any documentation with which a comparison could be made between the claims and the infringing device. Are there no brochures or manuals of the LEADTOOLS product? Part 4 of the Silvers' declaration refers to "materials". Can these be submitted?

For the above stated reasons, the petition is Denied.

Should applicant(s) desire reconsideration, they should supplement this petition by a statement overcoming the deficiencies noted above. No further petition fee is required.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision.



James J. Groody
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